

Service Date: September 24, 2004

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

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In the Matter of the Pass Through of Fees	)	UTILITY DIVISION
Levied on Regulated Companies for Funding	)	DOCKET NO. D2004.9.154
the Montana Consumer Counsel.	)	ORDER NO. 6589

**FINAL ORDER**

1. Section 69-1-223, MCA, provides for funding the office of the Montana Consumer Counsel (MCC) by a fee on all regulated companies (as defined at § 69-1-201(3), MCA). The Department of Revenue has notified the Public Service Commission (PSC) of the tax rate which will be effective for the period beginning October 1, 2003 and ending September 30, 2004. Section 69-1-224(4), MCA, requires that the PSC “by separate order authorize each regulated company to fully recover in its rates and charges, on an annual basis, the fees levied . . . .” This Order is being issued pursuant to that requirement.

2. Order No. 6510, issued September 23, 2003, authorized regulated companies to increase rates and charges for an annual period from October 1, 2003 through September 30, 2004. The authorized rate during that period was .11 percent (.0011).

3. The applicable rate for the tax period beginning October 1, 2004 is .13 percent (.0013). In order to permit full recovery of the MCC fees, this Order permits all regulated companies affected by this Order to reflect this tax rate in their revenue requirement as of October 1, 2004.<sup>1</sup> All rate regulated companies that pay the MCC fee may file tariffs reflecting the .13 percent tax rate.

4. On September 30, 2004 the authorization granted to regulated companies by Order No. 6510 to recover a tax rate of .11 percent (.0011) will expire. However, because the new rate

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1 “[R]egulated companies affected by this Order” means those companies that are rate regulated by the PSC. Other companies regulated “in any manner” (§ 69-1-401(2), MCA) by the PSC are subject to the MCC tax but do not need special authorization to recover the tax in their prices.

represents an increase over the previous rate, those rate regulated companies whose current tariffs are premised in part upon the .11 percent rate are not required to file new tariffs reflecting the expiration of that authorization. This Order is authorization for those companies currently recovering the .11 percent rate to either continue that recovery, or to file new tariffs reflecting recovery at a .13 percent rate. For rate regulated companies the filing of tariffs reflecting the rate authorized by this Order is permissive, not mandatory. Regulated companies may choose not to recover the MCC tax, or may choose to recover only a portion of the tax, in cases where the amount to be recovered would not justify submitting new tariffs. A rate regulated company may choose to defer implementing tariffs reflecting the tax until a later date (e.g., to coincide with other tariff changes). It should be noted, however, that the revenue requirement may not be accumulated unless authorized by the PSC.

5. All regulated services of a regulated company must absorb the rate increase proportionately to that service's contribution to the total gross operating revenue generated by the regulated activities within this state. As limited exceptions to this general approach, however, the floors in "flexible band" tariffs need not be exceeded and special market-based rates need not be increased.

#### CONCLUSIONS OF LAW

1. Pursuant to §§ 69-3-102, 69-12-201, 69-13-201, 69-14-111, 69-8-101 through 69-8-503, 69-3-801 through 69-3-862, and 69-3-1401 through 69-3-1409, MCA, the Montana Public Service Commission has jurisdiction over regulated companies as defined at § 69-1-201, MCA.

2. The Public Service Commission is required by Section 69-1-224(4), MCA, to allow immediate recovery of the regulated utility fee by each affected company in its rates and charges on an annual basis.

3. This Order does not apply to companies not rate regulated by the PSC.

4. The increased revenue requirement approved herein is a reasonable means of complying with §§ 69-1-223 et seq., MCA.

ORDER

Regulated companies as defined in § 69-1-201, MCA, are authorized to file tariffs reflecting an MCC tax rate of .13 percent effective October 1, 2004 through September 30, 2005, consistent with the Findings of Fact contained in this Order. This authorization is permissive, not mandatory and effective dates may, at the companies' discretion, be after October 1, 2004.

DONE AND DATED this 21st day of September, 2004 by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

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BOB ROWE, Chairman

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TOM SCHNEIDER, Vice Chairman

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MATT BRAINARD, Commissioner

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JAY STOVALL, Commissioner

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GREG JERGESON, Commissioner

ATTEST:

Connie Jones  
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision.  
A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.